

§ 31B-2.1. Delivery to other persons of instrument of renunciation by the person renouncing.

(a) In this section:

- (1) "Beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:
 - a. An annuity or insurance policy;
 - b. An account with a designation for payment on death;
 - c. A security registered in beneficiary form;
 - d. A pension, profitsharing, retirement, or other employment-related benefit plan;
 - e. An individual retirement account or retirement annuity; or
 - f. Any other nonprobate transfer at death.
- (2) "Deliver" means to deliver in person or to send, properly addressed, by first-class mail, telephonic facsimile transmission equipment, electronic mail, or third-party commercial carrier, or by any method permitted by G.S. 1A-1, Rule 4.

(b) The failure to deliver a copy of an instrument of renunciation by a method permitted by G.S. 1A-1, Rule 4, or by a method that results in actual receipt tolls any statute of limitations with regard to any right of action for breach of fiduciary duty.

(c) If a fiduciary renounces an interest in property pursuant to G.S. 31B-1(a)(9e), a copy of the instrument of renunciation shall be delivered to each living person whose beneficial interest is affected by the renunciation and to any co-fiduciary who did not join in the renunciation.

(d) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust, a copy of the instrument of renunciation must:

- (1) Be delivered to the personal representative of the decedent's estate; or
- (2) If no personal representative is then serving, be filed as an estate matter with a court having jurisdiction to appoint the personal representative.

(e) In the case of a beneficiary renouncing an interest in a testamentary trust, a copy of the instrument of renunciation must:

- (1) Be delivered to the trustee then serving;
- (2) If no trustee is then serving, be delivered to the personal representative of the decedent's estate; or
- (3) If no personal representative or trustee is then serving, be filed as an estate matter with a court having jurisdiction to enforce the trust.

(f) In the case of a beneficiary renouncing an interest in an inter vivos trust, a copy of the instrument of renunciation must:

- (1) Be delivered to the trustee then serving;
- (2) Except as provided in subdivision (3) of this subsection, if no trustee is then serving, be filed as an estate matter with a court having jurisdiction to enforce the trust; or
- (3) If the renunciation is made before the time the instrument creating the trust becomes irrevocable, be delivered to the settlor of the trust or the transferor of the interest.

(g) In the case of a beneficiary renouncing an interest created by a beneficiary designation made before the time the designation becomes irrevocable, a copy of the instrument of renunciation must be delivered to the person making the beneficiary designation.

(h) In the case of a beneficiary renouncing an interest created by a beneficiary designation made after the time the designation becomes irrevocable, a copy of the instrument of renunciation must be delivered to the person obligated to distribute the interest.

(i) In the case of a renunciation by a surviving holder of an interest in property subject to a right of survivorship, a copy of the instrument of renunciation must be delivered to the persons to whom the person renouncing reasonably believes the renounced interest passes, at their last addresses known to the person renouncing, and to the personal representative of the deceased joint holder, if any.

(j) In the case of a renunciation by a permissible appointee, or taker in default of exercise, of a power of appointment at anytime after the power was created, a copy of the instrument of renunciation must be delivered:

- (1) To the holder of the power;
- (2) To the fiduciary acting under the instrument that created the power or, if no fiduciary is then serving under the instrument that created the power, filed as an estate matter with a court having authority to appoint the fiduciary; and
- (3) To any holder of legal title to the property subject to the power of appointment other than the fiduciary.

(k) In the case of a renunciation by an appointee of an exercised power of appointment, a copy of the instrument of renunciation must be delivered:

- (1) To the holder of the power or the personal representative of the holder's estate;
- (2) To the fiduciary under the instrument that created the power or, if no fiduciary is then serving under the instrument that created the power, filed as an estate matter with a court having authority to appoint the fiduciary; and
- (3) To any holder of legal title to the property subject to the power of appointment other than the fiduciary.

(l) In the case of a renunciation of a power of appointment by the holder of the power, a copy of the instrument of renunciation must be delivered:

- (1) To the fiduciary acting under the instrument that created the power or, if no fiduciary is then serving under the instrument that created the power, filed as an estate matter with a court having authority to appoint the fiduciary; and
- (2) To any holder of legal title to the property subject to the power of appointment other than the fiduciary.

(m) In the case of a renunciation by a fiduciary of a right, privilege, power, or immunity relating to a trust or estate, a copy of the instrument of renunciation must be delivered as provided in subsection (c), (d), (e), or (f) of this section, as if the power renounced were an interest in property.

(n) In the case of a renunciation of a power by an agent, including an attorney-in-fact, a copy of the instrument of renunciation must be delivered to the principal or the principal's legal representative other than the agent.

(o) In the case of a renunciation by a trustee of a charitable trust, a copy of the instrument of renunciation must be delivered to the North Carolina Attorney General in addition to any other delivery required by this section.

(p) In the case of a renunciation by a donee, a copy of the instrument of renunciation must be delivered to the persons to whom the person renouncing reasonably believes the renounced interest passes, at their last addresses known to the person renouncing, and to the donor or the donor's legal representative other than the donee.

(q) The failure to deliver a copy of the instrument of renunciation as required in this section does not affect the validity of the renunciation for purposes of G.S. 31B-3 even though

the renunciation may not be recognized as a disclaimer for federal estate tax purposes.
(2009-48, s. 5.)